

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**HAZEL M. ROBY, as Administratrix of** §  
**the Estate of RONALD TYRONE** §  
**ROBY, Deceased,** §

**Plaintiff,** §

**v.** §

**BENTON EXPRESS, INC., et al.,** §

**Defendants.** §

**CIVIL ACTION NO.**  
**2:05cv494-B**

**PLAINTIFF'S MOTION TO EXTEND THE TIME FOR PLAINTIFF  
TO RESPOND TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

COMES NOW the Plaintiff in the above-styled matter and hereby requests that this Court enter an Order allowing Plaintiff additional time to respond to Defendant's Motion for Summary Judgment. Plaintiff would show unto the Court the following as grounds to justify a short extension of time:

1. Defendant filed its Motion for Summary Judgment on November 23, 2005.

2. Plaintiff's response to Defendant's Motion for Summary Judgment is due on December 16, 2005.

3. Numerous depositions have been taken in the last two weeks that are material and relevant to Plaintiff's response to Defendant's Motion for Summary Judgment, i.e., Roland Brown (Plaintiff's expert), Stephanie Stephens (the widow of the driver of Defendant's tractor-trailer), Officer K. J. Stapler (the Atlanta Police Officer who

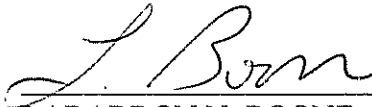
took the Be-On-the-Lookout report from Benton Express, Inc.), and M. P. Stirling (Plaintiff's expert).

4. Plaintiff has not received the transcripts of the depositions that she needs to attach as exhibits to her response.

5. Plaintiff can refer to testimony based on counsel's recollection but the actual deposition cites cannot be attached.

6. Further, Plaintiff has not been allowed to take the depositions of Defendant's experts, which may contain information in support of Plaintiff's allegations contained in her response to Defendant's Motion for Summary Judgment. (See affidavit of counsel for Plaintiff attached hereto as Exhibit A).

WHEREFORE, Plaintiff respectfully requests that this Court enter an Order allowing Plaintiff additional time until after all depositions have been taken and the transcripts received to respond to Defendant's Motion for Summary Judgment.


  
LABARRON N. BOONE  
Attorney for Plaintiff

OF COUNSEL:

BEASLEY, ALLEN, CROW, METHVIN,  
PORTIS & MILES, P.C.  
218 Commerce Street  
Post Office Box 4160  
Montgomery, Alabama 36103-4160  
(334) 269-2343 (Telephone)  
(334) 954-7555 (Facsimile)

**CERTIFICATE OF SERVICE**

I hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system that will send notification of such filing to the following on this the 14 day of December 2005.

  
\_\_\_\_\_  
OF COUNSEL

Gregory A. Brockwell  
Brett A. Ross  
Carr, Allison, Pugh, Howard, Oliver & Sisson, P C.  
100 Vestavia Parkway, Suite 200  
Birmingham, Alabama 35216

**Exhibit A to Plaintiff's Motion to Extend  
The Time for Plaintiff to Respond to Defendant's  
Motion for Summary Judgment**

**Affidavit of LaBarron N. Boone**

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HAZEL M. ROBY, as Administratrix of	§	
the Estate of RONALD TYRONE	§	
ROBY, Deceased,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO.
	§	2:05cv494-B
BENTON EXPRESS, INC., et al.,	§	
	§	
Defendants.	§	

AFFIDAVIT OF LABARRON N. BOONE IN SUPPORT OF  
PLAINTIFF'S MOTION TO QUASH/STRIKE AND/OR  
PLAINTIFF'S MOTION TO COMPEL DEPOSITIONS OF EXPERTS

STATE OF ALABAMA

COUNTY OF MONTGOMERY

PERSONALLY APPEARED before me, the undersigned Notary Public in and for said County and State, the within named LaBarron N. Boone, who, after first being duly sworn, stated as follows:

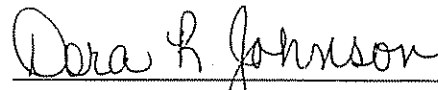
1. My name is LaBarron N. Boone and I am a resident citizen of Montgomery County, Alabama.
2. I represent the Plaintiff, Hazel Roby, in the above-styled matter before this Court.
3. I have spoken with counsel for Defendant Benton Express, Inc. on several occasions in an attempt to schedule the depositions of Defendant's experts. I have been

advised by counsel for Defendant that their experts will not be made available before the discovery cutoff of December 16, 2005.

Further, affiant sayeth not.

  
LABARRON N. BOONE

SWORN TO and SUBSCRIBED before me on this the 14th day of December 2005.

  
NOTARY PUBLIC

My Commission Expires: 11-01-06